



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director

January 17, 2017

ARCO Recycling, Inc.  
1705 Noble Road  
East Cleveland, Ohio 44112

Re: **ARCO Recycling, Inc.**  
**Director's Final Findings and Orders (DFFO)**  
**DFFO**  
**Construction & Demolition Debris**  
**Cuyahoga County**  
**CDDL021638**

**Subject: Final Findings and Orders**

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for ARCO Recycling, Inc.

You are hereby notified that this action of the Director of Ohio EPA (Director) is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 made payable to "Treasurer, State of Ohio." The Commission, in its discretion, may reduce the fee if by affidavit it is demonstrated that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission  
77 South High St., 17<sup>th</sup> Floor  
Columbus, Ohio 43215

If you have any questions, please contact Robin Nichols at (614) 644-3037.

Sincerely,

Brian Dearth, Administrative Officer 1  
Division of Materials & Waste Management

Enclosure

cc: Carl Mussenden, DMWM, CO  
Kelly Jeter, DMWM, CO  
Bruce McCoy, DMWM, CO  
Teri Finrock, Legal  
Robin Nichols, Legal  
Jarnal Singh, DMWM, NEDO  
Lynn Sowers, DMWM, NEDO

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OHIO EPA

2017 JAN 17 PM 4:18 BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

LEGAL OFFICE

In the Matter Of:

ARCO Recycling, Inc.  
1705 Noble Road  
East Cleveland, Ohio 44112

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Director's Final Findings  
and Orders

Respondent

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Arco Recycling, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Section 3714.12.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the Facility, as hereinafter defined, shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3714 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Respondent is a corporation, incorporated in the state of Ohio, and located at 1705 Noble Road in East Cleveland, Ohio.
2. Respondent is a "person" as that term is defined in ORC section 3734.01(H) and OAC rule 3745-400-01(P)(1).
3. Respondent asserts that it operates a construction and demolition debris recycling operation at 1705 Noble Road, East Cleveland, Ohio (the "Facility"). The Facility is located on a consolidated parcel identified by the Cuyahoga County Auditor's Office as parcel number 673-01-011, which is comprised of approximately 9.892 acres.
4. The Facility is neither licensed nor permitted as a construction and demolition debris facility or a solid waste disposal facility.

5. By letter dated June 3, 2016, Ohio EPA communicated to Respondent observations related to conditions at the Facility and discussed criteria that must be satisfied in order for Respondent's business activities to qualify as recycling for purposes of ORC Chapter 3714 and OAC Chapter 3745-400.
6. In August of 2016 Ohio EPA met with Respondent to discuss site conditions as well as best management practices that could be implemented at the Facility.
7. In correspondence dated September 28, 2016, Respondent indicated that in order to address the on-site materials it would implement certain practices, including hiring additional employees, processing and reducing the amount of the unprocessed concrete and wood piles, reducing the amount of residual screened material on-site, and reducing the amount of incoming material.
8. OAC Rule 3745-400-04(B) provides that "[n]o person shall conduct or allow illegal disposal of construction and demolition debris."
9. OAC Rule 3745-400-01(I)(2) defines illegal disposal as "the disposal of construction and demolition debris at any place other than a construction and demolition debris facility operated in accordance with Chapter 3714. of the Revised Code, this chapter, and Chapter 3745-37 of the Administrative Code, a solid waste disposal facility operated in accordance with Chapter 3745-27 of the Administrative Code, and licensed in accordance with Chapter 3745-37 of the Administrative Code, or as otherwise authorized by this chapter."
10. OAC Rule 3745-400-01(D)(3) defines disposal as "the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any construction and demolition debris into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage, reuse, or recycling in a beneficial manner."
11. On January 13, 2017, Ohio EPA and the Cuyahoga County Board of Health visited the Facility and observed that the practices Respondent's September 28, 2016 correspondence indicated would be employed had not been fully implemented. In addition, Ohio EPA observed a substantial increase in the amount of construction and demolition debris at the Facility. Currently, the construction and demolition debris at the Facility is estimated to be six hundred (600) feet long by five hundred (500) feet wide and reaching approximately fifty (50) feet in height.
12. By letter dated January 17, 2017, Ohio EPA notified Respondent that the conditions at the Facility constitute illegal disposal of construction and demolition debris, in violation of OAC 3745-400-04(B).

## **V. ORDERS**

Respondent shall achieve compliance with ORC Chapter 3714. and the rules promulgated thereunder according to the following compliance schedule:

1. Upon the effective date of these Orders, Respondent shall cease acceptance of construction and demolition debris at the Facility.
2. Upon the effective date of these Orders, Respondent shall cease disposal of construction and demolition debris at the Facility.
3. Upon the effective date of these Orders, Respondent shall complete the removal of all processed and unprocessed construction and demolition debris from the Facility. All material removed from the Facility in compliance with these Orders shall be lawfully managed.
4. Not later than fourteen (14) days after the effective date of these Orders, Respondent shall submit documentation of compliance with Order Number 3 to Ohio EPA at the address listed in Section VIII of these Orders.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Solid and Infectious Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate, and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice president, or the duly authorized representative, if such representative is responsible for the overall operation of the Facility.

## **VII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

### **VIII NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Materials and Waste Management  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: Jarnal Singh, Environmental Supervisor, DMWM

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

### **IX. RESERVATION OF RIGHTS**

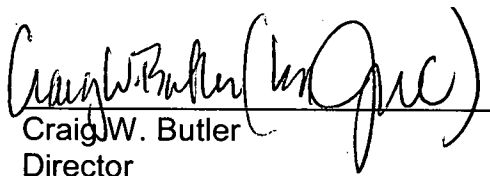
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal, or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3714 or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal, or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

### **X. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**IT IS SO ORDERED:**

**Ohio Environmental Protection Agency**

  
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Craig W. Butler  
Director